

# Cylchlythyr | Circular

## 2017/18 Fee and access plan guidance

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**To:** Regulated institutions and other interested parties  
**Response by:** **27 May 2016**  
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This guidance provides information and advice to prospective applicants, including the governing bodies of regulated providers, for 2017/18 fee and access plans. Information is also provided on how to enter the regulatory system.

If you require this document in an alternative accessible format, please telephone us on (029) 2068 2225 or email [info@hefcw.ac.uk](mailto:info@hefcw.ac.uk).



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## Introduction

1. This guidance provides information and advice to prospective applicants, including the governing bodies of regulated providers, for 2017/18 fee and access plans. Information is also provided on how to enter the regulatory system.
2. Students and potential students may find the information in this consultation circular of interest as they consider how the student body will inform their institution's fee and access planning process.
3. In publishing this guidance HEFCW aims to ensure that all potential applicants are fully aware of the requirements of the new regulatory system and that students and potential students are aware of the 2017/18 fee and access planning process to enable the student body to engage effectively in fee and access planning processes at their institution.
4. This guidance should be read in conjunction with the [Higher Education \(Wales\) Act 2015](#) (the 2015 Act) and explanatory notes, associated Regulations<sup>1</sup>, [Welsh Government Guidance on the preparation for delivery of the new regulatory system](#), [Welsh Government guidance on the preparation for full implementation of the new regulatory system for higher education in Wales](#) and [Welsh Government guidance to HEFCW on fee and access plans](#), provided on the [HEFCW website](#). Regulations can be reviewed and amended and, therefore, in referring to these documents readers will want to ensure they access the most current versions.
5. HEFCW publications that inform the fee and access plan application process, and should be read in conjunction with this guidance are, at the time of writing:
  - The relevant HEFCW [Corporate Strategy](#);
  - The relevant [Remit letter](#) to HEFCW from the Welsh Government;
  - [Widening Access Strategic Approach](#);
  - [Strategic Equality Plan](#);
  - [Transitional Statement of Intervention](#);
  - [Outcomes of the Consultation on Criteria for the Assessment of Quality, Method for Assessment of Quality and Investigation of Matters Relating to Quality and Standards](#);
  - [Guidance on Partnership Arrangements for Franchise Education Provided on Behalf of Regulated Institutions in Wales](#) (referred to in this guidance as Guidance on Partnership Arrangements)<sup>2</sup>.

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<sup>1</sup> The Higher Education (Qualifying Courses Qualifying Persons and Supplementary Provision (Wales) (Amendment) Regulations 2016; The Higher Education Fee and Access Plans Wales Regulations 2015; The Higher Education Amounts Wales Regulations 2015; The Higher Education Designation of Providers of Higher Education Wales Regulations 2015; The Higher Education Fee and Access Plans Notices and Directions Wales Regulations 2015.

<sup>2</sup> This guidance was consulted on under the title: *Guidance on Partnership Arrangements for provision delivered by external providers on behalf of regulated institutions in Wales*, HEFCW circular [W16/08HE](#). This guidance will be published in April 2016.

6. Future HEFCW publications, following consultation, will include a full Statement of Intervention and a Financial Management Code. The full Statement of Intervention will set out HEFCW's full powers when they are in effect. HEFCW's full powers are due to be in force from September 2017. The Financial Management Code will set out HEFCW's powers for the purposes of monitoring the organisation and management of institutions' financial affairs where institutions have a fee and access plan.
7. HEFCW's 2017/18 fee and access plan guidance has been developed taking account of the Equality Act 2010 and the [Wales specific public sector equality duty](#) and the [Well-being of Future Generations Act goals](#). HEFCW has given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as defined under the Equality Act 2010) and those who do not share it.
8. HEFCW recognises that there is no statutory requirement, under the 2015 Act, to consult on fee and access plan guidance. Nevertheless, from 2014 and the Welsh Government's development of the Higher Education Bill and 2015 Act, HEFCW has worked with stakeholder bodies, including Universities Wales, Colleges Wales and the National Union of Students (Wales), wherever possible, to consider their implications, including as they relates to fee and access planning. HEFCW provided opportunities for consultation on this 2017/18 fee and access plan guidance through circular [W16/07HE](#) and we held a consultation event on 22 February 2016. Further information and advice on fee and access planning is available from the HEFCW [website](#) and the following HE Act email addresses: [cyngorrheoleiddio@hefcw.ac.uk](mailto:cyngorrheoleiddio@hefcw.ac.uk) or [regulationadvice@hefcw.ac.uk](mailto:regulationadvice@hefcw.ac.uk). HEFCW will publish further information on our website as it becomes available.
9. A glossary of terms is provided on the HEFCW [website](#).

## **Background and context**

10. The Higher Education (Wales) Act 2015 establishes a new regulatory framework for higher education in Wales. The 2015 Act strengthens HEFCW's existing role as regulator, given the changing funding context, and it requires that HEFCW takes account of any guidance issued by Welsh Ministers when exercising its functions, as well as making provisions about: the new regulatory system and eligibility to apply for fee and access plans; student fees payable to certain institutions providing higher education; the quality of education provided by, or on behalf of, those institutions; and the financial management of those institutions.
11. The Welsh Government's guidance to HEFCW on fee and access plans is intended to provide clarity about the Welsh Government's policy intentions,

the legislative requirements, including the Welsh Government's expectations for how HEFCW might approach the approval, monitoring and evaluation of institutions' fee and access plans. While it is for HEFCW to determine the operational detail of the new regulatory system in accordance with the new statutory framework, HEFCW has taken the Welsh Government's guidance into account and sought legal advice in developing the 2017/18 fee and access plan guidance.

### Background to fee and access plans and accessing Welsh Government student support

12. Since 2012/13 fee plans have been a statutory requirement for institutions in Wales charging fees exceeding £4,000 a year. Under the 2015 Act, 2015/16 and 2016/17 approved plans formerly known as 'fee plans' become 'fee and access plans'. Institutions with fee plans for 2016/17 are regulated institutions under the 2015 Act for and, therefore, eligible to submit fee and access plan applications in 2017/18.
13. From academic year 2017/18 there are only two routes by which an institution in Wales can apply for its qualifying courses (full-time undergraduate and PGCE (QTS) courses) to be designated for access to Welsh Government student support. The designation of courses for statutory student support is provided for separately to the Higher Education (Wales) Act 2015 in regulations made under section 22 of the Teaching and Higher Education Act 1998. Higher education courses are designated by the Welsh Ministers, either via the automatic or case by case route, to enable students to access higher education.
14. One route is through an institution submitting a fee and access plan application to HEFCW for approval. Approval will lead to all its qualifying courses becoming automatically designated for Welsh Government student support and the institution becoming regulated for the period in which the fee and access plan is in force. Students studying on courses that have been automatically designated will be eligible to apply for Welsh Government student support, currently including tuition fee support up to a maximum of £9,000 a year.
15. The second route is for a higher education provider to apply to the Welsh Government for specific designation of its courses on 'course by course' basis. Students on courses that have been specifically designated would be eligible for Welsh Government student support for tuition fees up to a maximum of £6,000 a year. HE providers can charge tuition fees of more than £6,000 a year for specifically designated courses, with the balance of the fee above £6,000 a year being paid by, for example, the student. This route is administered separately by Welsh Government. It is not the purpose of this document to provide information about this second route. For further information on the Welsh Government specific designation process contact [HEPolicy@Wales.gsi.gov.uk](mailto:HEPolicy@Wales.gsi.gov.uk).

## Institutional autonomy

16. When exercising its intervention functions, Section 47 of the 2015 Act requires that HEFCW does not intervene in a way that demands a governing body do anything that is incompatible with any obligations or restrictions of a charitable organisation. HEFCW will not require an institution's governing body to do anything that is incompatible with the institution's governing documents. In Wales, for chartered institutions these include the Royal Charter and any Instruments which require the approval of the Privy Council. For Higher Education Corporations and Further Education Corporations the governing documents are the institution's instrument of government and articles of government. For any institutions in Wales that are companies that do not fall within the above categories the governing instruments are the company's memorandum and articles of association.
17. The 2015 Act (Section 48) also requires that HEFCW takes into account the importance of protecting academic freedom when exercising its intervention powers. This includes the freedom of an institution to determine:
  - i. the contents of courses and the manner in which they are taught, supervised and assessed;
  - ii. the criteria for the admission of students and to apply those criteria in particular cases; and
  - iii. the criteria for the selection and appointment of academic staff and to apply those criteria in particular cases.
18. HEFCW will ensure that it conducts itself in such a way as to comply with its duties under sections 47 and 48 of the 2015 Act.

## **2017/18 fee and access plan application templates**

19. The 2017/18 fee and access plan application template is provided in two parts: **Annex Ai** and **Aii** and applicants should address all sections of both parts.

## **Section One: Who can apply for a fee and access plan?**

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20. This section provides information on the HEFCW processes leading to the automatic designation of qualifying courses for Welsh Government student support. It covers the regulatory information HEFCW requires to be included in a fee and access plan which demonstrates that an institution is located principally or wholly in Wales, that it provides higher education and that it is a charity. It sets out the information HEFCW requires an applicant to provide on the applicant's financial viability, the organisation and management of its financial affairs and the quality of the education it provides. This section also provides information on courses that can be included in a plan, the duration of a plan, the levels of fee income and investment and the processes for exiting the regulatory system.
21. Regulatory information provided by an applicant in this section of the plan is for HEFCW's information and not intended for inclusion in the final fee and access plan to be published by an institution, following approval by HEFCW.
22. Where HEFCW holds sufficient, up-to date, financial, quality and/or other information/data about a currently regulated applicant, HEFCW will use it, subject to permission being given. Since the relevant information/data was originally provided for purposes other than regulation under the 2015 Act, HEFCW requires confirmation by the applicant's governing body that it is acceptable for HEFCW to use it for these purposes. Alternatively, an applicant is welcome to submit new, additional or more recent information to inform HEFCW's assessment.
23. Working with regulated institutions and other interested parties, HEFCW will reconsider information and data requirements for fee and access applications in 2018/19, following its review of the 2017/18 fee and access plan process.

### **Entry into the regulatory system**

24. Applicants for fee and access plans from 2017/18 will include those institutions that are currently regulated institutions as well as institutions that have not previously been regulated institutions or submitted fee and access plans. For further information about how institutions became regulated institutions prior to submitting 2017/18 fee and access plans, see the relevant paragraphs below.
25. It is for providers to opt into the regulatory system of fee and access plans from 2017/18. An institution that wishes its qualifying courses to be automatically designated for Welsh Government student support is required to have a fee and access plan approved by HEFCW. HEFCW's

approval of an institution's fee and access plan is part of the process. The obligations on a regulated institution's governing body include:

- i. ensuring that regulated courses fees do not exceed the applicable fee limit;
- ii. complying with any direction lawfully given by HEFCW;
- iii. taking into account any HEFCW guidance when complying with a direction issued by HEFCW in relation to compliance with fee limits;
- iv. complying with the general requirements of an approved fee and access plan;
- v. cooperating with HEFCW in exercising its duties to monitor and evaluate the compliance and effectiveness of a plan;
- vi. taking into account HEFCW guidance on quality;
- vii. taking into account advice in relation to provision which is, or is likely to become, inadequate in terms of quality;
- viii. cooperating with HEFCW's duty to assess the quality of its education and education provided by an external provider on its behalf;
- ix. complying with any requirement imposed by the financial management code;
- x. complying with a direction in respect of failure to comply with the code;
- xi. taking into account any guidance contained in the financial management code;
- xii. cooperating with HEFCW's functions in respect of failure to comply with the code; and
- xiii. cooperating with HEFCW's duties to monitor compliance with the code.

#### Fee plan thresholds

26. The 2015 Act requires an institution that might not have required a fee plan under the previous system, which operated for fee plans between 2012/13 to 2016/17, to apply for a fee and access plan for 2017/18 if the institution wishes its qualifying courses to be automatically designated for Welsh Government student support. This change from the previous system applies to further education institutions in Wales not in receipt of funding from HEFCW and/or institutions in Wales whose full-time fees previously have not exceeded £4,000 (the threshold above which it was necessary to apply for a fee plan under the previous system).

#### Categories of provision

27. Under the 2015 Act, the new regulatory framework covers two categories of provision:
  - i. higher education provided directly by a regulated institution; or
  - ii. higher education provided *on behalf of* a regulated institution (by another body).

28. HEFCW will take account of how both parties define their partnership arrangement, but it is ultimately for HEFCW to confirm whether the provision is provided by, or on behalf of, a regulated institution.
29. The following paragraphs contain a broad outline of the concepts relating to these categories of provision. For a fuller treatment of these concepts, please refer to HEFCW's [Guidance on Partnership Arrangements](#).
30. Where higher education is provided directly by an institution, the 2015 Act requires that the institution has an approved fee and access plan for its qualifying courses to be eligible for Welsh Government student support.
31. Where higher education is provided on behalf of an institution by another body, the institution on whose behalf the higher education is provided is responsible for applying for a fee and access plan (if that institution is in Wales).
32. For an applicant to decide whether higher education is provided directly or on behalf of another body, the applicant should consider which body has control over the qualifying course(s). Factors in determining this include which body has responsibility for the overall content and delivery of the qualifying course(s), quality assessment arrangements and contractual responsibility to the student.
33. As set out in HEFCW's [Guidance on Partnership Arrangements](#) degree awarding institutions and institutions whose higher education courses are validated by an appropriate awarding body are considered to provide higher education directly. Subsidiaries of institutions in Wales which have control over a qualifying course will also be considered to provide that course directly. These providers will require a fee and access plan to be approved by HEFCW if they wish to gain automatic designation.
34. Bodies delivering higher education under franchise arrangements are considered to be providing that higher education on behalf of another body (the franchisor). Subsidiaries of institutions in Wales which do not have control over a qualifying course will also be considered to be providing that course on behalf of another body in most cases their 'parent' institution (as if they were providing higher education under a franchise agreement). These providers will come under the fee and access plan of the parent institution. Where the partner is providing provision is on behalf of a regulated institution, the partner must be a separate legal entity and a charity.
35. There will be situations where an institution provides higher education directly *and* provides higher education on behalf of another body. For example, an institution may provide its own qualifying courses directly and also provide qualifying courses on behalf of another body under a franchise arrangement. In this situation the institution should apply for a fee and access plan for the qualifying courses it provides directly, but not for

the qualifying courses it provides under the franchise arrangement (which will be the responsibility of the franchisor).

36. **Annex B** provides a diagram setting out issues to consider in relation to control over a qualifying course when deciding which body is responsible for submitting a fee and access plan to HEFCW.

#### Eligibility to apply for a fee and access plan and evidence to be provided to HEFCW

37. HEFCW will approve a fee and access plan only if the institution submitting the plan can demonstrate that it meets all criteria according to section 2 (3) of the 2015 Act, relating to being an institution wholly or principally in Wales, providing higher education and being a charity. A fee and access plan applicant must also provide sufficient evidence of being financially viable, about the organisation and management of its financial affairs and the quality of education provided by it, or on its behalf.

#### Criteria for being an institution

38. The 2015 Act does not specifically define the term 'institution'. Examples of organisations HEFCW regards as institutions include: universities formed by Royal Charter, Higher Education Corporations and Further Education Corporations<sup>3</sup>. Universities formed by Royal Charters, Higher Education Corporations and Further Education Corporations do not need to provide evidence of being an institution and a charity. However, HEFCW does require all applicants to provide information on being an institution in Wales, and on being an institution in Wales providing higher education, as set out in the sections below.
39. HEFCW will determine if an applicant satisfies the requirements of being an institution on a case by case basis. A provider which is a charity providing higher education in Wales but which would not otherwise be regarded as an institution must apply to the Welsh Government if it wishes to be designated as an institution. Applicants must have this status confirmed before a fee and access plan is submitted to HEFCW. Providers not otherwise regarded as an institution, should contact the Welsh Government for advice on designation as an institution.  
[HEPolicy@Wales.gsi.gov.uk](mailto:HEPolicy@Wales.gsi.gov.uk) .

#### Criteria for being an institution in Wales

40. HEFCW will regard an institution as being in Wales by taking account of a range of information, including the extent to which its learning and teaching activities are either wholly or principally carried out in Wales and where its full-time equivalent (FTE) student numbers are located: see Section 57(3) (a) of the 2015 Act. HEFCW's consideration of the location of an

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<sup>3</sup> Bodies that provide training for members of the school workforce are also considered institutions

applicant's activities will be informed by evidence provided in the application: see The Higher Education (Designation of Providers of Higher Education) (Wales) Regulations 2015. Information should include:

- i. the applicant's name;
  - ii. the applicant's principal address and legal address where they are different<sup>4</sup>;
  - iii. the applicant's UK provider registration number;
  - iv. any other names under which the applicant operates;
  - v. where learning and teaching activities and FTE student numbers are located. (See definitions in [Higher Education Students Early Statistics Survey](#), (HESES) annex C);
  - vi. link to the applicant's webpages relating to the applicant's learning and teaching activities;
  - vii. where the majority of full-time equivalent (FTE) student numbers are located. Applications must state the total FTE numbers attending courses delivered in Wales compared to the total number of all FTE students attending courses delivered outside Wales.
41. We will determine the location of students as follows: For students recorded on the HESA student record: if a student is distance learning, they will be counted at the location of their home address; if they are franchised to another institution, they will be counted at the location of the other campus; otherwise they will be counted at the location of the campus they are recorded as attending. The counting will be done in the order listed. This means that a distance learner who is franchised out will be counted at the location of their home address, not the location of the franchise. All students returned on the Aggregate Overseas Record will be counted as being outside Wales. This definition is consistent with where distance learning students are counted for the purposes of determining fundability status in the [HESES](#) survey<sup>5</sup>.

#### Criteria on being an institution in Wales providing higher education

42. HEFCW will regard an institution in Wales as providing higher education if its provision includes a higher education course or courses, regardless of mode, listed in [Schedule 6 to the Education Reform Act 1988](#) and set out in the Welsh Government guidance to HEFCW paragraphs 3.12 and 3.13. To assess whether provision is higher education level, HEFCW will require applications to provide information on:
- i. a description of the higher education provided by the applicant in Wales;

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<sup>4</sup> Case law suggests that the term 'principal office' means a place where the business of a body corporate is managed and controlled as a whole - as referred to in *Halsbury's Statutes of England and Wales*, 4th ed., Vol 8, 1999 Reissue at page 366. HEFCW will normally use this meaning when referring to a principal address.

<sup>5</sup> [HESES](#): Higher Education Students Early Statistics Survey is an annual survey of higher education institutions about students on recognised higher education courses. See HEFCW circular W15/25HE, annex C.

- ii. a description of the qualification aims in Wales;
  - iii. the numbers of students in Wales that may be taking the higher education courses at the date of application and, for three years previously;
  - iv. the location or locations of the higher education provision in Wales;
  - v. link to the applicant's webpages relating to the applicant's learning and teaching activities;
43. Where information is requested in relation to the sections above on an organisation being an institution in Wales and being an institution in Wales providing higher education, figures should be based on verifiable data.
44. For a regulated institution that provides higher education under validation arrangements, HEFCW reserves the right to require copies of validation arrangements to confirm that the applicant providing higher education under validation arrangements has overall responsibility for the content and delivery of the qualifying courses. Subsidiaries of institutions in Wales that have overall control over qualifying courses may be required to provide evidence to HEFCW of an internal agreement with the awarding institution (usually its 'parent' institution) to confirm that the subsidiary has overall control of the qualifying courses.
45. Where an institution that has higher education provided on its behalf by another body, HEFCW reserves the right to require copies of the relevant agreements with the other body. Where the other body is a franchisee, a franchise agreement will be required. Where the other body is a subsidiary an internal agreement will be required. Copies of these agreements, if required, will enable us to understand the nature of the relationship, the impact on issues of quality and financial viability and to confirm that the other body does not have control over the qualifying course(s).

Criteria on being an institution in Wales that is a charity providing higher education

46. Fee and access plan applicants must be charities. All Chartered Universities in Wales and all Higher Education Corporations in Wales are registered charities. All Further Education Corporations are exempt charities. All institutions which have had a fee plan approved by HEFCW under the Higher Education Act 2004 are charities. Other applicants will need to provide the following information:
- i. the applicant's charity registration number and the name and address of the charity regulator registering the provider; or
  - ii. if the applicant is not registered with a charity regulator, the applicant must provide the reasons for this together with a copy of the applicant's governing document.
47. Providers not otherwise regarded as an institution, should contact the Welsh Government for advice on designation as an institution (email: [HEPolicy@Wales.GSI.gov.uk](mailto:HEPolicy@Wales.GSI.gov.uk)).

48. Providers of higher education not otherwise regarded as an institution will need to ensure that they complete the process for designation administered by the Welsh Government before a fee and access plan application is submitted to HEFCW.
49. Institutions intending to publish a 2017/18 fee and access plan in line with most institutions in England and Wales, by late July/early August 2016, should submit fee and access plan applications by **27 May 2016** to enable HEFCW to administer the fee and access process by late July/early August 2016.

### **Requirements of a regulated institution**

50. Applicants seeking entry into the regulatory system will be required to provide information relating to the:
  - i. financial viability of an institution;
  - ii. arrangements for the organisation and management of the institution's financial affairs; and
  - iii. quality of education provided by, or on behalf of, the institution.

### Currency and sufficiency of information provided to HEFCW

51. As indicated earlier in the guidance, where HEFCW holds sufficient, up to date information, we will use it, subject to the governing body's permission to do so, with applicants also being able to submit new, additional or more recent information to inform our assessment processes. Where HEFCW does not have sufficient, up-to-date financial or quality information or data, applicants are required to provide up-to-date information in support of their applications, which HEFCW will take into account in approving or proposing to reject a plan. Working with regulated institutions and other interested parties, HEFCW will reconsider information and data requirements for fee and access applications in 2018/19 following its review of the 2017/18 fee and access plan process.

### Evidence to be provided to HEFCW

52. HEFCW will consider the following information when assessing if applications are eligible to be considered. HEFCW reserves the right to visit the applicant to better understand eligibility related to the organisation and management of financial affairs and the quality of education provided on, or on behalf of, the applicant.

### Financial viability

53. An institution must provide information to HEFCW about its financial viability and sustainability, including evidence that it has a low risk of failure on financial grounds over the medium to long term. This should be

sufficient to give HEFCW reasonable confidence that students will not be at risk of being unable to complete their course as a result of financial failure.

54. Applicants should provide full details of their corporate group structure, including details of all group companies or organisations, including subsidiaries, parent/holding companies and associate or joint ventures.
55. As appropriate, the assessment of financial sustainability may take into account the financial arrangements of any group structure (including subsidiaries, parent/holding companies, or associate and/or joint ventures) where it is considered relevant to financial sustainability.
56. Fee and access plan applicants must provide information, which illustrates:
  - i. **Historical performance** - a track record of financial performance evidenced by annual reports and externally audited financial statements for the three years prior to the application. The accounts must be audited each year by a registered auditor. This must not be the same firm and/or individual that prepared the accounts, to ensure that HEFCW can have full confidence in the audit. The basis of the accounts will be Generally Accepted Accounting Practice in the UK (UK GAAP) (or successor requirements) or International Financial Reporting Standards (IFRS) if appropriate.
  - ii. **Financial strategy** - a financial strategy that reflects the overall strategic plan available at the point of submitting an application for a fee and access plan, sets appropriate benchmarks and performance indicators, shows how resources are to be used, and how activities and infrastructure will be financed. This should include how applicants assess and review their sustainability, including the use of sustainability assessments.
  - iii. **Forecasts - applicants must be able to provide evidence, if necessary with the support of a parent company guarantee, that they have:**
    - adequate cash flow to remain solvent, that is, sufficient liquidity to pay debts as they fall due; and
    - an adequate balance sheet, that is, that they maintain a net total assets position and would not incur deficits if these would result in a net total liabilities position.
57. Applicants should submit as part of their evidence their current strategic plan plus full financial forecasts for the current year (2015/16) and following three years. The evidence should include a commentary on the assumptions being made and how any financial risks are being managed.
58. Financial tables and guidance on the completion of the forecast information is available in the HEFCW circular [Requests for Forecasts 2015](#). Applications who have not previously completed HEFCW's forecast model

may request the Microsoft Excel model by emailing [assurance@hefcw.ac.uk](mailto:assurance@hefcw.ac.uk).

59. The assessment of an applicant's financial performance and sustainability will not be used in isolation to determine whether it meets this requirement. The financial sustainability assessment will be an overall judgement that also takes into account the context of the applicant's financial position and their strategic plan.

#### The organisation and management of financial affairs

60. An applicant will need to provide evidence that it is well managed with sound management practice in place and the capacity to develop in line with its strategic plan and the financial strategy that supports its fee and access plan.
61. An applicant must provide information to illustrate that it:
- i. has financial management processes that are well-governed and controlled adequately and effectively;
  - ii. plans and manages activities to remain viable;
  - iii. has robust and comprehensive systems of risk management and internal control;
  - iv. has effective arrangements for the management and quality assurance of data used for internal decision making;
  - v. has regular, reliable, timely and adequate information to monitor operational and financial performance;
  - vi. reports information regularly, comprehensively and correctly to appropriate senior management and those charged with governance;
  - vii. manages its estate in a sustainable way in line with an estates strategy;
  - viii. is able to meet all the necessary data capture and reporting requirements for HEFCW including those administered by the Higher Education Statistics Agency (HESA) and other bodies as required by HEFCW. Examples include:
    - the latest external data audit
    - the annual HESES survey;
    - student, student destination, staff, estates, finance and business and community interaction data provided to HESA; and
    - the annual assurance return.
62. In assessing the data management capabilities consideration will be given, where applicable, to an applicant's track record in submitting data to HEFCW or other bodies including HESA, the Welsh Government or the Student Loans Company.
63. Applicants must provide evidence that they can comply with the principles of the Higher Education Code of Governance<sup>6</sup> (Committee of University

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<sup>6</sup> [Higher Education Code of Governance \(Committee of University Chairs\) December 2014](#)

Chairs, December 2014) unless adherence to alternative, equally robust governance principles can be evidenced. HEFCW recognises that the code is voluntary and institutions may be able to apply alternative governance practices to achieve similar outcomes. However, HEFCW considers that the principles and intended outcomes (referred to as ‘the Elements’) of the Code are sound. Where it is not possible to evidence compliance with the Code, HEFCW will require an explanation that describes equally robust alternative arrangements that are in place or demonstrates that there are appropriate and reasonable grounds for non-adherence.

64. If an applicant does not already comply with the Higher Education Code of Governance they should discuss with HEFCW before applying how they might provide evidence of equally robust alternative arrangements.
65. Applicants will need to take account of all relevant guidance on the responsibilities of trustees and effective trusteeship to be found on the Charity Commission website.
66. Applicants must provide evidence that they:
  - i. comply with the statutory requirements relating to external audit; and
  - ii. are owned, managed and run by ‘fit and proper persons’ by providing:
    - evidence of the organisation’s identity and that of key individuals (for example, the Governing Body, Vice Chancellor, Principal, directors, shareholders, trustees), along with their skills and experience; and
    - confirmation that directors/ trustees (as relevant) are eligible to act as either directors or trustees and have not been disqualified from acting as directors or trustees.

#### Quality of education provided by, or on behalf of, an institution

67. HEFCW is responsible for the assessment of the quality of all education provided in Wales, both by regulated institutions and on behalf of regulated institutions. For the purposes of the assessment of quality of education under the 2015 Act, education provided outside Wales is to be considered as provided in Wales if it is provided as part of a course that is provided principally in Wales.
68. The quality of education is deemed to be inadequate if it is not adequate to meet the reasonable needs of those receiving the education or undertaking the course. The reasonable needs for higher education are currently considered to be met if a provider obtains judgements of ‘Meet(s) UK expectations’ or ‘Commended’ in all four judgement categories in Quality Assurance Agency (QAA) review. This ensures quality assessment is as rigorous as the rest of the UK. In every case, a regulated institution receiving a ‘requires improvement’ or ‘does not meet’ outcome will be deemed to have, or to be at risk of having, inadequate quality. The reasonable needs for non-higher education are considered to be met if the provider has a successful review/inspection by the appropriate body

responsible for the quality standards of that provision (eg [Estyn](#), [Pearson](#), etc).

69. HEFCW may carry out, or arrange for an agent to carry out, a review relating to the quality of education provided by or on behalf of a regulated institution, and the governing body of a regulated institution must take into account any advice given to it by HEFCW or the body appointed by HEFCW for this purpose.
70. The governing body of a regulated institution must provide HEFCW and/or HEFCW's agent, with information, assistance and access to its facilities and the facilities of other bodies providing higher education on its behalf. Where agreements for the provision of higher education by a body on behalf of a regulated institution (for example, franchise arrangements) are signed after 1 September 2015, the agreement must specifically require the body providing higher education on the regulated institution's behalf to provide HEFCW, or HEFCW's agent, with information, assistance and access to its facilities for the purposes of HEFCW assessing the quality of education provided on behalf of the regulated institution.
71. In 2017/18 fee and access plan applications HEFCW requires applicants to provide all of the following:
  - i. confirmation from the applicant that it has internal quality assessment procedures in place for all of its education provision in Wales – whether such provision is by the applicant itself or on its behalf. This means higher education provision, and non-higher education provision, eg school, further or professional education. It also covers education the applicant provides directly or via other providers.
  - ii. confirmation and evidence that its higher education provision, and any higher education provided on its behalf (eg franchise provision), has successfully undergone a *Higher Education Review: Wales* ([HERW](#)) or equivalent [Quality Assurance Agency](#) process. Applicants that need to undergo a *Higher Education Review: Wales* should contact the Quality Assurance Agency. (If an existing regulated provider is in the process of working through review outcomes to address issues identified, in accordance with normal procedures, they may apply for a fee and access plan);
  - iii. confirmation and evidence that its non-higher education provision, and any non-higher education provided on its behalf, has successfully undergone a review/inspection by the appropriate body responsible for the quality standards of that provision. (If an existing regulated provider is in the process of working through review/inspection outcomes to address issues identified, in accordance with normal procedures, they may apply for a fee and access plan);
  - iv. a list of external provider agreements together with partnership course information, date of agreement,<sup>7</sup> and duration of the

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<sup>7</sup> That is, the date at which the agreements were revised, amended, to clarify that the provision comes under the 2015 Act. Alternatively, applicants will need to include the date at which an addendum was added, to confirm that the provision comes under the 2015 Act.

partnership arrangement. As noted in paras 43 and 44, HEFCW reserves the right to require copies of the relevant agreements. (In subsequent years HEFCW will require an institution to update its external provider information to take account of new and developing quality assessment arrangements, as they emerge. HEFCW will consult on new quality assessment arrangements in due course.)

### **Exit from the regulatory system for automatic course designation**

72. There are three ways in which a regulated institution can exit the regulatory system including:
- i. not continuing to provide higher education, not being principally or wholly in Wales, or not remaining a charity;
  - ii. not having an approved fee and access plan in place<sup>8</sup>; and
  - iii. HEFCW withdrawing its approval of a regulated institution's fee and access plan.
73. HEFCW will withdraw approval of a fee and access plan where it is no longer satisfied that an institution meets the definition of a regulated institution. HEFCW also has powers to withdraw its approval of a fee and access plan in other circumstances.
74. Where a regulated institution exits the system:
- i. HEFCW's powers in relation to the quality of education provided by, or on behalf of, the institution continue to apply in relation to the institution's designated courses;
  - ii. HEFCW may give the governing body of an institution a direction or take (or not take) specific steps for the purpose of dealing with or preventing a failure to comply with a general requirement of an approved fee and access plan if at the time of the failure the fee and access plan was in force;
  - iii. the institution's governing body will be required to ensure that fees for academic years starting within the period to which its fee plan related continue to comply with the applicable fee limit; and
  - iv. the institution's governing body is required to ensure that students do not lose fee protection and that fees for academic years starting within the period of its most recent fee and access plan continue to comply with the relevant fee limit for the duration of a student's course.

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<sup>8</sup> It is envisaged that HEFCW will invite fee and access plans annually, at least in the medium term.

## **Period to which a plan relates and the duration of a plan**

75. Fee and access plans must specify the period when they will be in force (see section 4(1) of the 2015 Act.) HEFCW works to an academic year for many purposes, including fee and access planning, which is 1 August until 31 July.
76. An annual planning cycle for HEFCW (1 August to 31 July) is in line with our previous process and it enables institutions in Wales to be agile in responding to changes in policy and practice and the needs of students.
77. A fee and access plan will be considered to be 'in force' from the date it is approved and it has 'effect' from the academic year to which the fee and access plan relates. For example, a 2017/18 plan will be in force from the date of HEFCW's approval, July/August 2016, and in effect from 2017/18.
78. The 2015 Act provides for a fee and access plan to be for a maximum of two years. The Welsh Government guidance sets out the expectation that the fee and access plans will only be for one year, in the short-term. The Welsh Government may develop future regulations, following consultation, for a longer fee and access plan period, possibly up to five years.

## **Fee limits, levels of investment and transparency for students**

79. Fee limits must not exceed the maximum amount prescribed in legislation, currently £9,000 per annum. For further information see the Higher Education (Amounts) (Wales) Regulations 2015 and note that some courses have lower maximum fees (regulations 4 to 6 provide further information). Details of course fees to be charged in 2017/18 must be included in the fee and access plan. Welsh Government guidance to HEFCW on fee and access planning is clear that potential students and students should be aware of their aggregate tuition fees for the duration of their course and be protected from changing fee levels following their application to the course<sup>9</sup>.
80. In all matters related to fees, including indicating any inflationary increases up to the maximum fee limit, an institution must comply with [Competition and Markets Authority \(CMA\) guidelines for higher education](#) and HEFCW encourages institutions to publically confirm that their fee and access plan complies with these guidelines.

## **Levels of fee income and investment**

81. Under the previous fee plan system, a higher education provider was required to invest a reasonable percentage of fee income above the basic

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<sup>9</sup> See Welsh Government guidance to HEFCW on fee and access plans and aggregate fees including paragraphs 4.20, 4.24, 5.4, 8.1

fee level (which was £4,000 a year) in supporting equality of opportunity and promotion of higher education. HEFCW's expectation was that the percentage of fee income invested above the basic fee level should be at least 30%. From 2017/18, a fee and access plan must account for income received from the whole student fee up to a maximum of £9,000 and previous concepts of a basic fee level and a 30% investment rate no longer apply.

82. A fee and access plan must set out course fee levels, total anticipated fee income and the intended total fee amount to be invested in the promotion of equality of opportunity and the promotion of higher education, in line with Welsh Government fee and access plan guidance. Investment will be categorised by measures as set out in the application template. We recognise that applicants may not invest in all measures or invest equally in the measures it chooses.
83. HEFCW has calculated that 30% of income above the *basic fee level* invested by higher education providers in 2016/17 would equate to between 14% and 17% of *total fee income* to be invested in fee and access plan commitments in 2017/18. HEFCW expects all applicants that previously submitted plans in 2016/17 to invest at least the same amount in 2017/18, in line with Welsh Government expectations, and HEFCW will share with those applicants its calculations of the percentage of total investment expected in 2017/18<sup>10</sup>. For other applicants HEFCW expects an investment of between 14% and 17% of total fee income, to be agreed with HEFCW in the light of their fee and access plan commitments. This will therefore be the reference point for dialogue and, as experience develops, we expect to be more finessed and bespoke in our approach.
84. HEFCW's assessment of a fee and access plan will take into account the extent of an institution's investment in, provision and targets for, supporting its fee and access plan objectives. Welsh Government guidance expects HEFCW to be robust in expecting more, in terms of financial support and outreach activity, from those institutions which have previously been regulated and whose record suggests that they have furthest to go in securing an increased proportion of students from under-represented groups<sup>11</sup>.
85. Where an institution: does not fully achieve its fee and access plan commitments; does not demonstrate sufficient ambition in pace and rate of progress; and/or charges maximum fee levels, HEFCW may set an expectation of higher rates of investment in future years, within a range of 15% to 20% of total fee income.

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<sup>10</sup> Currently regulated institutions will be sent an individualised fee and access plan template which will include HEFCW's calculation of the percentage of total investment expected in 2017/18 based on 2016/17 investment.

<sup>11</sup> See Welsh Government guidance to HEFCW on fee and access plans paragraph 5.6

## Section two: the focus and contents of fee and access plans

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86. This section provides information on the importance of taking account of the student voice in developing a fee and access plan. It highlights access and retention as priorities in the context of supporting equality of opportunity and promoting higher education and a focus on under-represented groups in higher education. Information is provided on presenting a strategic approach to, and a rationale for, a fee and access plan, arrangements with other bodies, setting objectives, targets and categorising provision by measures.

### The student voice

87. Fee and access plan applications should clearly articulate the depth and breadth of engagement with the student body, including its involvement in developing and assessing the fee and access plan. A fee and access plan application should set out how the student voice and student partnership arrangements contribute to governance and quality in the institutional context. Applicants should take account of their Student Charter or equivalent commitments. The [Wise Wales statement on Partnership for higher education](#) sets out principles of good practice and [Breaking down the barriers to student opportunities and youth social action](#) provides a framework and toolkit for student partnership engagement. HEFCW encourages all applicants to reflect these principles and approaches in their applications.

### Access and retention

88. The 2015 Act refers to 'fee and access plans'. The name change (formerly a 'fee plan') emphasises the contribution a plan should make to 'access' to higher education as that relates to equality of opportunity and the promotion of higher education. A fee and access plan is also expected to include provisions to support retention (see reference to retention in Higher Education (Fee and Access Plans) (Wales) Regulations 2015 paragraph 6 (b).) This emphasis on supporting access to and through higher education aligns with HEFCW's definition of widening access as set out in [HEFCW's Corporate Strategy](#), [Widening Access Strategic Approach](#) and related policy documents available on the HEFCW website.

### Supporting equality of opportunity and the promotion of higher education

89. According to Regulations 5 and 6 of the Higher Education (Fee and Access Plans) (Wales) Regulations 2015, an applicant must set out the fee and access plan objectives of the institution as they relate to equality of opportunity and the promotion of higher education and specify the level of

fee income to be invested in the objectives. Welsh Government guidance to HEFCW provides some clarification on what might, and what must, fall within these terms (see paragraphs 4.18 and 4.19) and the summary below. The term 'students under-represented in higher education' is discussed more fully below.

#### Equality of opportunity to support groups under-represented in higher education

- i. promote and safeguard fair access to higher education, including identifying individuals with the greatest potential from disadvantaged backgrounds;
- ii. attract and retain students and potential students from under-represented groups;
- iii. raise the educational aspirations and skills of people from under-represented groups to support success in higher education;
- iv. support and increase retention, progression and completion, particularly people from low participation neighbourhoods, looked after children, care leavers and carers;
- v. improve the higher education experience for groups under-represented in higher education;
- vi. provide to under-represented groups effective information, before and during their studies;
- vii. provide high quality academic and welfare support to groups under-represented in higher education; and
- viii. support the progress to employment or further study of groups under-represented in higher education.

#### Promotion of higher education

- i. provide more effective engagement with private, public or voluntary bodies and communities in Wales;
  - ii. improve the quality of learning and teaching, with reference to the quality of the student experience;
  - iii. strengthen the employability of Welsh graduates;
  - iv. promote Welsh higher education more effectively internationally;
  - v. deliver sustainable higher education; and
  - vi. raise awareness of the value of higher education to potential applicants.
90. Fee and access plan applications **must** include provision to:
- i. attract applications from groups under-represented in higher education;
  - ii. retain individuals from groups under-represented in higher education;
  - iii. provide financial assistance to students;
  - iv. make available to students or prospective students information on financial assistance;
  - v. inform prospective students of the aggregate amount of fees to be charged for the completion of the course before the prospective student commits to the course;
  - vi. monitor compliance with the provisions of the plan; and
  - vii. monitor progress in achieving the objectives set out in the plan.

## **Groups under-represented in higher education**

91. We recognise that definitions of groups under-represented in higher education will differ by institutions' mission and purpose. An applicant's analysis of groups under-represented in its own student body, or in higher education more generally, will inform its fee and access plan objectives and actions to support groups under-represented in higher education. An applicant's equality of opportunity-related objectives and its equality of opportunity-related provision should relate **only** to groups under-represented in higher education and removing the barriers to higher education that these groups experience<sup>12</sup>.
92. HEFCW's Corporate Strategy and Widening Access Strategic Approach, references groups which HEFCW considers to be under-represented in higher education. We recognise that not all individuals within these groups are under-represented in higher education and acknowledge that an applicant will need to assess its admissions profile and the profile of its student body to target fee and access plan resources appropriately. HEFCW's definitions include people of all ages: from Communities First and the Welsh Index of Multiple Deprivation areas; low participation areas; people with protected characteristics; people studying through the medium of Welsh.
93. In considering under-representation in higher education, fee and access plan applicants may wish to consider ways in which they take account of 'hard to reach' learners. HEFCW considers that hard to reach learners would include people within the under-represented groups listed above, plus people: living in workless households; experiencing 'in work poverty'; seeking asylum; receiving an Educational Maintenance Allowance (EMA) and/or free school meals; acting as carers; having a care background; having a background of criminal convictions.
94. Within its overall approach to fee and access planning, an applicant should consider: part-time and mature students; all UK and EU students: under-represented groups; and in learning and teaching provided on its behalf. HEFCW will take this into account when considering the application.

## **The strategic approach to fee and access plan development**

95. An applicant should ensure that commitments in its fee and access plan application are consistent with, and support as appropriate, its strategic planning documents: these may include, strategic plans or their equivalent, Strategic Engagement and Planning Documents (SPEDs) or their equivalent, strategic equality plans or similar document and Welsh language standards and/or commitments as appropriate. An institution

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<sup>12</sup> Under-represented groups for the purposes of a fee and access plan, as defined by the 2015 Act and Welsh Government Guidance to HEFCW on fee and access plans are 'groups that are under-represented in higher education'.

should take account of HEFCW's Corporate Strategy and other widening access and student experience documents and HEFCW's Strategic Equality Plan and objectives.

96. HEFCW expects an institution to embed its fee and access plan at a strategic level across the institution and align it with its strategic objectives.

### **The fee and access plan rationale**

97. An applicant should set out the rationale for the fee and access plan objectives to support equality of opportunity and the promotion of higher education. Where a currently regulated institution has had fee plans in place previously, a critical review of the outcomes and lessons learnt from those plans should clearly inform the rationale. The development of the applicant's fee and access plan objectives and provision should be informed by research on the effectiveness of intervention strategies. A rationale may include a commitment to supporting collaboration and/or regional coherence agendas. A rationale should also be provided for the levels of investment in categories of provision, as noted in the following section.

### **Arrangements with partners providing higher education on behalf of the applicant that support equality of opportunity and the promotion of higher education objectives**

98. An applicant should reflect in the fee and access plan application all full-time higher education learning and teaching provision it makes, or that is made on its behalf (eg through partnership arrangements) which supports equality of opportunity and the promotion of higher education. All such provision should be reflected in its objectives, provision and targets. Proposed changes to an approved fee and access plan resulting from changes to provision provided on behalf of the institution should be approved by HEFCW in advance, as this will constitute a variation to the plan.

### **Objectives, provision, measures and investment to support equality of opportunity and the promotion of higher education**

99. An applicant should indicate how the objectives they propose relate to, and support, equality of opportunity and the promotion of higher education. HEFCW recognises that it is neither beneficial nor meaningful to identify a wide range of objectives in all fee plan areas. However, applicants will want to satisfy themselves that they have sufficient objectives to provide a full account of, and return on, the level of public investment to which the plan relates.

100. An applicant should set out the amount of fee and access plan income it plans to invest in different categories of provision. We call these categories 'measures'<sup>13</sup>. An applicant should cost provision by categories<sup>14</sup>. We recognise that applicants may not invest in all measures or invest equally across the measures it chooses. Identifying investment by the categories provided will enable HEFCW to report at a national level on investment by Welsh Government measures.
101. A fee and access plan application should set out information about packages of financial support to be made available to students, for example, its hardship funding, bursaries and/or other financial support which might have replaced financial contingency funding, which ended on 31 July 2015. The costs of this provision should also be provided together with a rationale for the different forms of student financial support. Fee and access plan applicants should demonstrate how they will measure the impact of their financial support packages in terms of access and retention.
102. In developing 2017/18 plans HEFCW considers it important that existing and emerging practice in supporting widening access, equality and diversity and promoting higher education in Wales is retained and enhanced. Such activity which may support groups under-represented in higher education include, but is not limited to:
- i. all-age recruitment from Communities First cluster areas and areas in the bottom quintile of the lower super output areas of the Welsh Index of Multiple Deprivation (WIMD);
  - ii. participation and success in HE inventions supporting all-age groups under-represented in higher education, including those from UK low participation areas;
  - iii. attainment-raising activities to improve differential outcomes particularly for students from disadvantages backgrounds and with protected characteristics;
  - iv. articulation and progression pathways into higher education including further education and higher education, higher education in further education and Welsh medium higher education;
  - v. fair admissions, and Wales as the destination of first choice, for higher education including to students from Wales and the UK;
  - vi. higher-level learning and skills, retention and student success;
  - vii. flexible learning opportunities, including part-time study, workplace learning and technology-enhanced learning;
  - viii. approaches which increase access to, and widen participation in, internationalisation opportunities, including international study, placement and volunteer experiences.

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<sup>13</sup> 'Measures' is a term used in the Welsh Government guidance to HEFCW on fee and access planning. See also the HEFCW glossary of terms on the HEFCW Higher Education (Wales) 2015 webpages.

<sup>14</sup> The categories of provision are listed in the fee and access plan application template and are based on the Welsh Government measures set out in paragraphs 4.18 to 4.20 of Welsh Government Guidance to HEFCW on fee and access plans.

- ix. fair access to the professions (including access to medicine and science, technology, engineering, mathematics provision), high level skills and the priority sectors contributing to economic prosperity;
- x. UK and national duties and Welsh Government priorities relating to tackling poverty, raising educational aspirations and attainment, supporting mental health and wellbeing; social mobility and social justice;
- xi. widening access sustainability;
- xii. collaborative, cross-sectoral, multi-agency approaches regionally and nationally; and
- xiii. the evidence base to support widening access and impact assessment demonstrating effective practice and success in widening access to higher education.

103. HEFCW encourages fee and access plan applicants in Wales to collaborate in delivering provision that is beneficial to individuals, communities and regions and which contributes to economies of scale, increasing opportunities and avoiding duplication. Such collaboration may include support for the Reaching Wider regional Partnerships' structures and/or provision. HEFCW recognises that collaboration may mean that prospective students may apply to study at partner institutions or more widely.

104. Subscriptions to networks or services that support access, equality of opportunity and the promotion of higher education can be included in applications and such expenditure should be categorised under the appropriate measure in the application template.

### **Target setting**

105. A fee and access plan should contain SMART<sup>15</sup> institutional targets that contribute to demonstrating the applicant's commitment to increasing and/or maintaining the number of students from under-represented groups in higher education, or other fee and access plan objectives, as appropriate. Targets should demonstrate the level of ambition, pace of progress and distance to be travelled by applicants as a result of fee and access plan provision and investment.

106. In considering targets for under-represented groups, an applicant may wish to include targets relating to people with protected characteristics where they are under-represented in its institution or in higher education more generally, as this aligns with their Strategic Equality Plans or their equivalent commitments to equality and diversity.

107. Targets should be based on an applicant's assessment of areas where improvements in equality of opportunity and the promotion of higher education should be made. In areas where achievement or progress is

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<sup>15</sup> specific, measurable, achievable, realistic, time-bound

already strong ambitious targeting might be focused more usefully on other areas where there is further to travel to improve or enhance performance.

108. Targets should either be achievable within one year, or be a target for 2017/18, which contributes towards a longer-term target, to enable progress to be reported through annual monitoring by December<sup>16</sup> following the period for which the plan was in force.
109. An applicant's targets must be derived from auditable sources and a clear audit trail should be maintained to support the calculation of the original target for subsequent monitoring.
110. While HEFCW accepts that it is neither beneficial nor meaningful to set targets in all fee plan areas, applicants will want to satisfy themselves that they have sufficient targets to provide a full account of, and return on, the level of public investment to which the plan relates. The level of public investment will differ between institutions, as will the quantity of targets.
111. Close attention should be paid to target setting, as failure to secure and retain reasonable numbers of under-represented groups in higher education may impact on the percentage of fee income an institution will be expected to invest in fee plan commitments in future years.

## Evaluation

112. The Welsh Government expects that 2017/18 fee and access plan applications will be informed by institutions' own monitoring and evaluation of previous plans (see this guidance section: *The Fee and Access Plan Rationale*). HEFCW expects institutions to monitor and evaluate the impact and effectiveness of fee and access plans annually from 2017/18 and this intelligence will inform our annual monitoring assessment of fee and access plans. Effective evaluation requires resource and reasonable evaluation costs can be included in the fee and access plan application funding categories and in a description of provision under the plan. Institutions should consider developing an evaluation framework as they develop their 2017/18 applications to assure themselves and HEFCW that the fee and access plan will deliver meaningful outcomes and meet ambitious targets. It might not be appropriate to evaluate all aspects of a fee and access plan every year, but we would want to understand the institution's evaluation plans and we reserve the right to sample evaluations and evaluation planning to inform our own evaluation processes, including reporting to Welsh Government and identifying and share effective practice<sup>17</sup>.

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<sup>16</sup> HEFCW will review the fee and access plan annual monitoring cycle as part of our review of the 2017/18 fee and access planning process. December 2018 is an indicative date for annual monitoring of the 2017/18 fee and access plans.

<sup>17</sup> Institutions may find the [HEFCW Widening Access to Higher Education Evaluation Guidance](#) (September 2015) developed by the Wales Institute of Social and Economic Research, Data & Methods (WISERD) a useful resource.

## **Section three: HEFCW's 2017/18 fee and access plan process**

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113. Section three provides information on the authorisation and submission of a fee and access plan, HEFCW's fee and access approval and rejection process, the requirement to publish a fee and access plan, variations to a fee and access plan, monitoring and evaluation processes, impact and sustainability considerations and HEFCW contacts for information and advice on the fee and access plan process.

### **Authorisation of fee and access plans**

114. The final fee and access plan application will require approval by the applicant's governing body, following a process of engagement with the student body, before being submitted to HEFCW. A plan which does not fully demonstrate that it has been through the stages outlined above may not be recommended for approval. Following discussions on the submitted fee and access plan with an institution, where any changes are made, HEFCW will require the governing body to approve the final plan prior to re-submission. This may be towards the end of July or early August each year and HEFCW may not recommend for approval a fee and access plan at this stage if it has not been finally approved by a governing body. Therefore, applicants should ensure their processes of governing body agreed delegation of authority arrangements are sufficient in these circumstances.

### **Submission of a fee and access plan application**

115. Completed fee and access plan applications should be uploaded to our secure site at <https://www.hefcw.ac.uk/uploadfap.aspx> by **27 May 2016**. All file names should be clearly labelled with the applicant name, a description of the file and the date of submission. Please note that there is a maximum file name length of 255 characters. Please submit all fee and access plan application documents in Word/Excel format, as appropriate. If you are unable to submit a signed Word version of the application, please also submit a signed PDF version.

### **HEFCW's fee and access plan approval and rejection process**

116. HEFCW cannot approve a fee and access plan unless it is satisfied that the applicant is an institution in Wales, providing higher education and is a charity. In addition, HEFCW must be sufficiently assured of the institution's financial viability, its arrangements for the organisation and management of its financial affairs and the quality of all the education provided by, or on behalf of, the institution, as set out earlier.

117. Following receipt of a fee and access plan application, HEFCW will discuss informally any issues in the plan directly with the applicant, including in relation to level of ambition/distance to travel issues.
118. Where fee and access plans are submitted as part of the HEFCW fee and access annual submission process, normally a submission date of late May, HEFCW will aim to notify an applicant of the outcome of its fee and access plan position regarding the approval, or otherwise, normally by late July/early August, after which it will list institutions with accepted plans on its website and inform the Student Loans Company. Any institution which does not have an approved fee and access plan in place following HEFCW's process of notification regarding approval or otherwise, will be subject to the processes set out below, and described in the diagram in **Annex C**, relating to HEFCW's processes for intending to reject a plan.

### **HEFCW criteria for the assessment of fee and access plans**

119. The following criteria will be used in the assessment of fee and access plans:

#### Part One – regulatory requirements

120. The robustness of evidence provided relating to the applicant's eligibility to enter the regulatory system as it relates to:
- i. being an institution in Wales
  - ii. providing higher education;
  - iii. being a charity;
  - iv. its financial viability,
  - v. its effective organisation and management of its financial affairs;
  - vi. the quality of the education provided by it or on its behalf; and
  - vii. the fee limits not exceeding the maximum applicable fee limit specified in the legislation.

#### Part Two – focus and contents of plans

- i. the extent to which the plan builds on an evaluation of relevant previous practice in the institution or more broadly to address any weaknesses or areas for improvement when removing barriers to higher education for groups under-represented in higher education;
- ii. the extent to which the plan safeguards fair access;
- iii. the extent to which the plan addresses equality of opportunity and the promotion of higher education;
- iv. the extent to which the plan covers underrepresented groups and the rationale for selecting those groups;
- v. the extent to which the plan addresses the recruitment and retention of the underrepresented groups selected;
- vi. alignment with the strategic objectives of the institution;
- vii. the level of ambition as evidenced by the targets set and/or distance to travel in securing an increased proportion of students from under-

- represented groups, particularly in relation to financial support and outreach;
- viii. the provision of financial advice to applicants and students;
- ix. the amount of student support provided from fee income; and
- x. the level of the fee and the proportion and distribution of fee income spent to deliver equality of opportunity and the promotion of higher education.

### Part Three

- i. the governing body's signed approval of the submitted plan.

121. HEFCW will confirm that a fee and access plan is approved by writing to an institution's governing body. If HEFCW is unable to approve a plan it will write to the governing body (sent to the Chair of the governing body and Clerk to the governing body and copied to the Accountable Officer) to set out its proposed rejection of the plan.

### **Notice of HEFCW's intention to reject a fee and access plan**

122. HEFCW will not approve a fee and access plan where:

- i. regulatory information provided by the applicant is considered to be inadequate<sup>18</sup>;
- ii. the applicant's fee limits exceed the maximum applicable fee limit specified in the legislation; or
- iii. the institution's governing body has not signed its approval of the submitted plan.

123. HEFCW may not approve a fee and access plan where it considers HEFCW's criteria for the assessment of the focus and contents of plans, listed above, are not adequately met.

124. If HEFCW proposes to reject a fee and access plan it must provide the applicant's governing body with a warning notice. The diagram in **Annex B** sets out the stages of the notice process.

### Stage One

125. The warning notice, stage one, will:

- i. Set out the proposed rejection of the fee and access plan;
- ii. Set out HEFCW's reasons for proposing to reject the fee and access plan;
- iii. Inform the governing body that it may make representations to HEFCW about the proposed rejection of the fee and access plan; and
- iv. Specify the period (40 days) from the date of the warning notice within which, and the way in which, representations may be made.

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<sup>18</sup> Information regarding being an institution in Wales, providing higher education and being a charity that is financially viable with sound arrangements for the organisation and management of its financial affairs and quality of all the education provided by, or on behalf of, it.

126. From the date of the warning notice, applicants have up to 40 days to make written representation to HEFCW, with all representations to be sent to the HEFCW Chief Executive.
127. Where representations are received, HEFCW will undertake to review the representations and decide whether to issue a notice of rejection of the fee and access plan within 40 days of receipt of the representations, except where the submission of additional information is required in order for HEFCW to be able to adequately consider the representations. In such instances, the additional information will be requested within 28 days of receipt of the representations and should be submitted by the institution within 28 days of this HEFCW request, in order for a decision to be made within 60 days of receipt of the original representations. Where representations are received, no Notice of Rejection of Proposed Fee and Access Plan will be issued until after the completion of this process.
128. Following completion of stage one, HEFCW may decide to approve the proposed fee and access plan and no further action is required.

#### Stage Two

129. Where, following completion of stage one, HEFCW considers it is unable to approve the proposed fee and access plan, a notice of rejection will be issued. The notice will:
- i. set out HEFCW's reasons for rejecting the proposed fee and access plan;
  - ii. inform the governing body that it may apply for a review of the decision to reject the proposed fee and access plan; and
  - iii. include any other prescribed information set out under the 2015 Regulations, that is, the date of issue of the notice; an explanation of when the notice is to be treated as having been given; the grounds on which an application for review may be made; the procedure that a governing body must follow in order to apply for a review; and the name and address of the review panel to whom an application for a review must be made.
130. Regulations state that a notice is to be treated as having been given on the day that the first of these events occurs:
- iv. the governing body notifies HEFCW in writing that it accepts the notice;
  - v. the time limit to apply for a review has expired and the governing body has not applied for a review;
  - vi. a review has concluded and HEFCW has notified the governing body in writing that the notice has effect.
131. Regulations state that applications for review must be made to the review panel in writing within 40 days of the notice rejecting the proposed fee and access plan. The application for review must specify the grounds for the review and include: a copy of the notice to be reviewed (including all

information provided with and/or in it by HEFCW) and information in support of the application.

132. The grounds on which an institution's governing body may apply for a review of a notice rejecting its proposed fee and access plan are as follows:
- vii. the governing body presents a material factor for consideration to which, for good reason, it has not previously drawn HEFCW's attention; and/or
  - viii. the governing body considers that HEFCW has disregarded a material factor which it should have considered; and/or
  - ix. the governing body considers that the decision to reject the proposed fee and access plan is disproportionate in view of all the relevant facts which were considered by HEFCW.
133. It should be noted that an application for a review cannot be made where the institution's governing body has notified HEFCW in writing that it accepts the notice rejecting the proposed fee and access plan.
134. The review is to be carried out by a review panel, constituted of a person, or panel of persons, appointed by the Welsh Ministers. Upon receiving an application for a review, the review panel will provide the governing body and HEFCW with an anticipated timetable for completing the review. The review panel will also give HEFCW details of the notice rejecting the proposed fee and access plan to be reviewed, details of the grounds on which the review application has been made and a copy of the information supplied by the governing body in support of the application for review.
135. The review panel may make a written request for further information from HEFCW or the governing body for the purposes of the review. Any request for further information made by the review panel will be sent to HEFCW and the governing body at the same time. HEFCW or the governing body will be required to provide any information requested by the review panel within 28 days of the date of the request. The review panel will not be obliged to consider any information received after the expiry of this period.
136. The review panel will provide a copy of any information received within the 28 day period to the governing body (if the information was provided by HEFCW) or to HEFCW (if the information was provided by the governing body). The review panel will also consider whether it is appropriate to allow representations from either HEFCW or the governing body in respect of any further information submitted to it in response to its request for such information. If the review panel considers it appropriate to allow representations, it will notify HEFCW and the governing body accordingly.
137. The review panel will take account of all information submitted, and representations made, by HEFCW and the governing body in reaching its decision. The review panel will prepare a written report that is dated and sent to both HEFCW and the governing body at the same time.

138. HEFCW will take account of the review panel's report and reconsider its decision to issue the notice rejecting the proposed fee and access plan. HEFCW will then notify the governing body in writing within 40 days of the date of the review panel's report as to whether or not the notice rejecting the proposed fee and access plan has effect, and provide reason for that decision. If the outcome of the review is that the notice should have effect that decision will be binding on the governing body of the institution.

### Stage Three

139. Where the governing body accepts the notice rejecting the proposed fee and access plan, the time limit for applying for a review has expired without an application being made or the review panel upholds the notice, HEFCW will reject the proposed fee and access plan.

### **The requirement to publish an approved plan**

140. The approved plan must be published on an institution's website<sup>19</sup>. HEFCW expects that publication would be within one week of formal approval by HEFCW. A published plan must be easily accessible to students, prospective students and other interested parties, however the published text must not vary from the text in the plan as approved by HEFCW. HEFCW recognises that an institution uses a wide range of mechanisms for conveying information to students. HEFCW considers that a fee and access plan is one mechanism an institution uses to provide information to interested parties, including HEFCW, potential applicants and students.

### **Variation of a fee and access plan**

141. While the fee and access plan is in force, regulated institutions are required to inform HEFCW immediately of any changes to their charitable status, principal location or activities that may impact on their satisfaction of the criteria under Section 2(3) of the 2015 Act.
142. Where there are material changes to the approved fee and access plan and its commitments, a regulated institution should discuss the implications of these changes with HEFCW and their student representatives at the earliest opportunity and in advance of any changes being made. Such changes may include, but are not limited to: changes to tuition fees below £9,000 a year; new or revised arrangements for provision of higher education provided on behalf of the institution; changes to provision provided on behalf of the institution; or where the body providing learning and teaching on behalf of an institution ceases to be a charity while the fee

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<sup>19</sup> This guidance indicates that the regulatory information (section one) of the fee and access plan is for HEFCW and not for publication.

and access plan is in force. Any changes to the fee and access plan that alter the plan will require HEFCW approval.

143. Any financial commitments to students made in the original plan, as approved by HEFCW, must be honoured.
144. Where a plan is varied after publication, an institution should publish a revised plan following approval by HEFCW. Where a variation to a plan is not approved by HEFCW the existing published plan will stand.

### **Monitoring and evaluation of fee and access plans**

145. An institution should monitor its progress to inform its reporting to HEFCW. The development of a fee and access plan should be informed by the intelligence gathered by an institution as part of its monitoring and evaluation of previous plans.
146. HEFCW will monitor and evaluate the effectiveness of an individual institution's agreed fee and access plan, and fee and access plans collectively, in supporting equality of opportunity and promoting higher education. Evaluation outcomes will: inform future good practice information and advice from HEFCW; enable HEFCW to assess effective fee and access plan activities and investments with the aim of improving plan outcomes; and inform HEFCW's future fee and access plan guidance. The Welsh Government considers that this will become an increasingly important component of HEFCW's role in future.
147. The 2015 Act enables Welsh Ministers to issue guidance to HEFCW on its fee and access monitoring and evaluation functions.
148. HEFCW expects that the success of the plan will be assessed following submission of a fee and access plan report annually in December following the period for which the plan was in force. If appropriate, external advice may be sought in the assessment process.
149. HEFCW expects to report to the Welsh Government annually on the fee and access plan process and outcomes normally in March following the year the fee and access plans are in effect. HEFCW will report to the Welsh Government in March 2019 on fee and access plans that were in effect during academic year 2017/18.

### **HEFCW's impact assessment**

150. As a public authority, HEFCW has responsibilities under the [Equality Act 2010](#) and [public sector duty](#) to give due regard to equalities issues when developing and implementing its policies. In addition, HEFCW has duties under the [Well-being of Future Generations Act](#) (Future Generations Act)

and duties to the Welsh language<sup>20</sup>. HEFCW does not regulate whether relevant higher education providers meet legal obligations under the Equality Act 2010. Fee and access applicants should note that, in the context of equalities, the Welsh Government guidance to HEFCW on fee and access plans (paragraph 4.18) states that groups under-represented in higher education may include individuals who share protected characteristics<sup>21</sup>, as recognised by the Equality Act.

151. At this stage in fee and access policy development HEFCW has undertaken a policy screening to identify any potentially negative impacts on equality and diversity, the Welsh language and the well-being goals, as set out in the Future Generations Act. HEFCW has considered data and evidence related to protected characteristics and the Welsh language, where it is available to HEFCW. HEFCW would welcome additional evidence to inform its fee and access plan policy development and implementation and HEFCW included specific equalities-related questions in its consultation on this guidance.
152. The Well-being of Future Generations Act includes seven goals<sup>22</sup> and a 'sustainable development principle' to ensure that public bodies, such as HEFCW, take account of the impact they may have on people living in Wales in the future. HEFCW has considered these goals and the sustainability principle in developing and implementing this guidance.
153. As an organisation HEFCW is committed to providing a high standard of service to the public in Welsh and English, in accordance with the principle of treating the Welsh and English languages equally. Our standards of service are consistent with our [Welsh Language Scheme](#). Further information is available on our website.
154. Opportunities to study through the Welsh language are a distinctive and important part of higher education in Wales. HEFCW supports the development of Welsh medium higher education and works with higher education providers to increase enrolments on Welsh medium courses. In developing fee and access plans, applicants should take account of Welsh medium provision.

### **Further information and advice**

155. The 2015 Act enables HEFCW to provide information and advice to the governing body of a regulated institution and to prospective applicants. HEFCW's aim is to ensure that all applicants are fully aware of their

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<sup>20</sup> New Welsh language standards which will apply to HEFCW will be published in 2016.

<sup>21</sup> Protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnerships, race, religion and belief and non-belief, sex and sexual orientation.

<sup>22</sup> Well-being of Future Generations goals: a prosperous Wales, a resilient Wales, a healthier Wales, a more equal Wales, a Wales of vibrant culture and thriving communities, a globally responsible Wales.

obligations before they become a regulated institution and to minimise administrative burdens on applicants and on HEFCW at all stages of the application process.

156. A new email address has been developed for queries about any aspect of the Higher Education (Wales) Act 2015, including fee and access plan queries. Please email queries to either: [cyngorrheoleiddio@hefcw.ac.uk](mailto:cyngorrheoleiddio@hefcw.ac.uk) or [regulationadvice@hefcw.ac.uk](mailto:regulationadvice@hefcw.ac.uk).

**Timetable for the 2017/18 fee and access plan process for those applicants intending to secure approval, or otherwise, by late July/early August 2016**

<b>Activity</b>	<b>Indicative date</b>
HEFCW publication of fee and access plan guidance	18 April 2016
Applicants to submit fee and access plans.	27 May 2016
HEFCW/applicant dialogue on fee and access plans <i>As well as informal dialogue between HEFCW and the applicant during this period, HEFCW will send the applicant formal generic and specific feedback as a result of which the applicant may wish to/be required to make amendments and/or submit additional information before HEFCW considers applications for final approval at the end of July/early August.</i>	31 May - 28 July <sup>23</sup> 2016
HEFCW to inform applicants of the outcome of their fee and access plan application.	late July - early August 2016
Institutions publish approved plans online. HEFCW expects this to be within one week of approval.	August 2016
Fee and access plan appeals process begins.	Early August 2016
HEFCW annual monitoring of the 2017/18 fee and access plan process.	provisionally December 2018
HEFCW reports to Welsh Government on the fee and access planning process to be submitted.	provisionally March 2018
HEFCW reports to Welsh Government on the 2017/18 fee and access plans following monitoring.	provisionally March 2019

<sup>23</sup> Please note dates from late July may vary slightly to ensure HEFCW is able to implement fully the new fee and access process for 2017/18 fee and access plans.